IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2006

Coram :

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE P.P.S.JANARTHANA RAJA

Tax Case (Reference) No.149 of 2000

Reference No.94/2000

M/s.K.N.Chari Rubber & Plastics Pvt. Ltd.,
Madras.18. ..Applicant

Vs

The Commissioner of Income Tax,
Tamilnadu-I, Madras. ..Respondent

Reference under Section 27(1) of the Income Tax Act, 1957 by Income Tax Appellate Tribunal, Madras, 'D' Bench in W.T.A. No.1096(Mds)/1993 for the assessment year 1989-90 against the order of The Commissioner of Income Tax (Appeals) V, Madras-600034, against the order of the Assistant Commissioner, Company Circle - I(4), Madras.

For Applicant : No appearance
For Respondent : Mrs.Pushya Sitaraman
Sr.Standing Counsel for
Income Tax Dept.

JUDGMENT

(Judgment of the Court was delivered by
P.P.S.Janarthana Raja, J.)

Income Tax Appellate Tribunal, Madras, 'D' Bench, referred the matter under Section 27(1) of the Income Tax Act at the instance of the assessee, for opinion of this Court, raising the following questions of law:

"1. Whether the Tribunal was right in holding that the values of the motor cars, land at Pallikaranai Village and factory building at Avadi are includible in the net wealth of the appellant company despite the fact that all of them were acquired out of own funds of the appellant company and such inclusion is against the intention of the legislature reflected in the speech of

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

the Hon'ble Finance Minister while introducing the Finance Bill 1983?

2. Whether the Tribunal was right in holding that expression 'Motor Cars' occuring in Section 40(3)(vii) of the Finance Act, 1983 leaves no ambiguity in interpretation and as such, motor cars forming part of Plant & machinery in the block of assets for depreciation under Sec.32 of the I.T. Act, 1961, as part of the Plant & Machinery, should be construed as motor cars simpliciter as specified for the purpose of section 40(3) (vii) of the Finance Act, 1983?

3. Whether the Tribunal was right in holding that the factory building at Avadi cannot be treated as business asset, used for the purpose of business of the appellant company and the value thereof is includible in the net wealth of the appellant company as per interpretation of Section 40(3) (vi) of the Finance Act, 1983 in the facts and circumstances of the case?"

2. The brief facts of the case arising out of the above questions of law are as under:

The assessee is a closely held private limited company. In the wealth tax return relevant for the assessment year under consideration, the assessee declared its net wealth excluding the value of motor cars, vacant land at Pallikaranai Village and the land and building at Avadi. The assessee contended that the motor car being a plant and machinery on which depreciation was allowed in the Income Tax proceedings, the same is not specified under the provisions of Section 40(3) of the Finance Act, 1983. Similarly, in respect of the land and building at Avadi, it was claimed that it was a business asset and hence will not be liable to wealth tax. As regards the vacant land at Pallikaranai Village, the assessee contended that certain loans have been raised against this property and therefore, the liabilities have to be given due consideration while arriving at the value of the property. The Assessing Officer did not agree with the contentions of the assessee and disallowed the claims of the assessee. Aggrieved by the order of the Assessing Officer, the assessee filed an appeal before the Commissioner of Income Tax (Appeals). The C.I.T.(A) dismissed the appeal and confirmed the order of the Assessing Officer. Aggrieved by the order, the assessee filed an appeal before the Income Tax Appellate Tribunal. The Income Tax Appellate Tribunal followed the assessee's own case for the earlier assessment year and held that the wealth tax had been rightly levied on these assets.

3. Though there was service of notice, there is no representation on behalf of the assessee.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

4. We find that the issue stands covered by this Court judgment reported in 260 ITR 164 in the assessee's own case, wherein it was held that the assessee is liable to wealth tax on the assets as stated above. Hence, we find no error or infirmity in the order of the Income Tax Appellate Tribunal and we answer the questions of law in favour of the Revenue and against the assessee. No costs.

km

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Assistant Registrar,
Income Tax Appellate Tribunal,
Madras Bench - 'D',
Rajaji Bhavan, Besant Nagar,
Chennai-90. (5 copies)

2. The Secretary,
Central Board of Direct Taxes,
New Delhi (3 Copies)

3. The Commissioner of Income Tax (Appeals)V,
Madras-34.

4. The Assistant Commissioner,
Company Circle - I(4),
Madras.

5. The Commissioner of Income Tax,
Tamil Nadu - I, Madras.

WEB COPY

1 cc To Mrs.Pushya Sitaraman, Sr.S.G.SC, SR.25967.

Tax Case (Reference) No.149 of 2000

GV(CO)
RVL 05.07.2006

https://hcservices.ecourts.gov.in/hcservices/